(1954) Department.

(Yes SERIES.

G.O. No. 10 & 3

Dated 25. 3. 54

FOR MYSORE STATE

[Despatch Abstract.]

Copy of current file of Confidential G.O.Ms.No.1023, Publi Works Department, dated 25th March 1954:--

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Copy of Confidential Memo No.83896-B/52-1 dated 10-10-19 to all the Chief Engineers:--

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Contractors -- Contractors convicted of Criminal Offence -- Their continuance.

A question has been raised whether a person convicted of criminal offences can be registered or continued as a contrac tor for Government works. It has, been suggested that only those convicted of offences against the State. public peace-- and tranquility and those involving grave moral turpitude nee be kept out. The Chief Engineers are requested to offer thei remarks in the matter.

/True copy/

Copy of confidential letter No.2580/52-R1 dated 22-10-52 from the Chief Engineer, Tungabhadra Project, Chepauk, Madras to the Secretary to Govt., Public Works Dept.:--

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~~I agree that in addition~~

Sub: Contractors -- Convicted of Criminal offence their continuance.

Ref: Government P.W.D. Memorandum No.83896/B/52-1 dat 10-10-1952.

I agree that in addition to those convicted for offences against the ordinances of the realm, those convicted for offe ces involving grave moral turpitude of the category of forger corruption, Rape and murder should also be kept out.

/True copy/

Copy of Confidential letter No.4711-G/50-13 dated 31-10- from the Chief Engineer for Electricity, Madras to the Secret to Govt., Public Works Dept., Madras:--

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Sub: Contractors -- Contractors convicted of criminal offence -- their continuance.

Ref: Govt. Memo.No.83896-B/52-1, P.W., dated 10-10-1952.

I agree with the suggestion mentioned in the Government Memorandum cited above that only those contractors convicted of offences against the State, public peace and tranquility and those involving grave moral turpitude need be kept out.

/True copy/

Copy of Confidential ~~xx~~.letter No.1620-G/52-1 dated 13t November 1952 from the Chief Engineer, Public Works Departmer (General), Chepauk, Madras to the Secretary to Government, Public Works Dept., Madras:--

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Contractors -- Contractors convicted of criminal offence Continuance.

Ref: Govt. Memo No.83896-B/52-1, dated 10-10-1952.

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above that only those contractors convicted of offences against the State, public peace and tranquility and those involving grave moral turpitude need be excluded from the Register of Contractors I invite in this connection, attention to para 3(ii) of G.O.Ms. No.3710 dated 5-9-1952 wherein the Government have ordered that a preliminary verification of the financial ability ordered that a preliminary verification of the financial ability and also the character of the contractors should be made through the Collector of the district before registration. Evidently, the Collector of the district would have to be consulted for giving effect to the suggestion in the Government Memo cited and the names of contractors who are already borne in the Register of Contractors and who are also considered to be guilty of the offences mentione in the Government Memo would have to be deleted on receipt of intimation from the Collector.

/True copy/

Copy of Confidential letter No.1620-G/52-2 dated 3-12-1952, from the Chief Engineer, P.W.D.(General and Buildings), Chepauk, Madras to the Secretary to Govt., P.W.D., Madras:--

---

Contractors -- Contractors convicted of criminal offence -- continuance -- regarding.

Ref: Govt. Post copy of Telephonic Message No.83896-B/52-1, dated 11-11-1952.

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I agree with the reply sent by the late Chief Engineer(Gener in his letter No.1620-G/52-1, dated 13-11-1952.

/True copy/

Copy of letter (Confidential) No.3939/52-A-2 dated 4-12-1952 from the Chief Engineer for Irrigation, Madras to the Secretary to Govt., P.W.D.,,Madras:--

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Sub: Contractors -- Contractors convicted of criminal offence -- their continuance.

Ref: Govt. memo No.83896 B/52-1 dated 10-10-1952.

I agree to the suggestion made by the Government in the memo. cited above.

/True copy/

Copy of letter No.60516-D2/52-HR dated 16-5-53 from the Chief Engineer (Highways), Madras to the Secretary to Govt., Public Works Dept., Madras:--

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Sub: Contractors -- Convicted of Criminal offence -- their continuance.

Ref: P.W.Dept. Memorandum No.83896-B/52-6 dated 12-10-52.

I agree with the suggestion in the Government Memo that only those persons who were convicted of offences against the State Public peace and tranquility and those involving grave moral turpitude need be kept out.

/True copy/

P.T.O.

Copy of Confidential G.O.Ms.No.1023, dated 25-3-1954, Public Works Department:--

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CONTRACTS -- Contractors convicted of criminal offences -- Inclusion in the list of contractors -- Further instructions -- Issued.

READ AGAIN:--

G.O.Ms.No.3710, P.W., dated 5-9-1952.

READ ALSO:--

Memo. to the G.O.Ms.No.83896/3/52-1 dated 17-11-1952.
From the C.E., (T.P. Branch), No.2580/52.R.1 dated 22-10-1952.
From the C.E.(I), No.4711-G/52-13, dated 31-10-1952.
From the C.E., P.W.D. (General), No.1620-G/52-1, dated 13-11-1952.
From the C.E.(I), No.3939/52-A2 dated 4-10-1952.
From the C.E.(H), No.60516/52/52-HR dated 16-5-1953.

***

G.O.Ms.No.1023, dated 25-3-1954:--

A question has been raised whether a person convicted of criminal offence can be registered as an approved contractor or continued to be retained in the register of approved contractors or given fresh contracts. The Government have carefully examined the above question in consultation with the Chief Engineers and direct in continuation of the orders issued in G.O.No.3710, P.W., dated 5-9-1952 that persons convicted of any of the offences specified in the annexure to this order should not be registered as approved contractors or retained in the register of approved contractors or given fresh contracts.

2. The Chief Engineers concerned may, subject to the approval of the Govt., grant exemption in deserving cases from the operation of this order.

ANNEXURE.

1. Offences under sections 121 to 127 and 130 of the Indian Penal Code.

2. Offences under Chapter VII of the Indian Penal Code.

3. Offences under Chapter VIII of the Indian Penal Code.

4. Offences under chapters XII, XIII and XV of the Indian Penal Code.

5. Offences under sections 162, 163, 170, 177, 181, 182, 191 216-A, 226 to 229, 270, 272 to 276, 281 302, 304, 307, -- 312 to 318, 327 to 333, 340, 354 to 357, 358 to 377, 378 489, 493 to 498, 506 and 507 of the Indian Penal Code.

6. Offences under sections 3, 4,5 and 6 of the Explosive Substances Act, 1908.

7. Offences under sections 5, 6, 10, 14 and 15 read with section 20 of the Indian Arms Act, 1878.

8. Offences under sections 4(1), 5 and 7 of the Madras Prohibition Act, 1937.

Copy of letter No.20425-Wks-I-1/56-1 dated 26th June, 1956, from the Chief Engineer, P.W.D.(General), Madras to the Secretary to Government, Public Works Dept., Madras:--

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Sub: Contractors -- Blacklisting of contractors convicted on criminal offences -- Regarding.

I enclose a copy of letter No.285 Confdl. dated 23-4-1956 from the Supdg. Engineer, Tanjore Circle, regarding the removal from the list of contractors, the names of contractors who have been convicted of criminal offences under Section 353 I.P.C.-- (Assault on a public servant). This Section is not included in the Annexure to G.O.No.1023 Public Works dated 25-3-1954. But I consider that the inclusion of this Section in the Annexure to the G.O. mentioned above is quite necessary for the proper execution of the works by this Department. If a contractor assaults a Government servant on duty, it will be impossible to get work done by him. I therefore agree with the Supdg. Engineer and request that offences coming under Section 353 of the I.P.C. may also be included in the Annexure to G.O.No.1023 Public Works dated 25-3-1954.

2. Pending approval of Government to my proposal in para 1-above, I am instructing the Supdg. Engineer to blacklist the contractor mentioned in his letter.

/True copy/

Copy of letter No.285 Confdl. dated 23-4-56 from the Supdg. Engineer, Tanjore Circle, Tanjore, to the Chief Engineer, P.W.D. (General), Madras:--

--

Contractors -- Blacklisting of -- Contractor convicted on criminal offences -- blacklisting -- regarding.

Ref: Chief Engineer's Endt.No.56168-Ac-2/55 C.d. dated 15-12-55.

The facts set forth in the petition forwarded with the Chief Engineer's Endt. to the effect that the contractor Sri S.A. Srinivasalu Naidu assaulted the P.W.D. Section Officer, Tirumarugal, and courted imprisonment etc. are true. On addressing the Sub-Magistrate, Mayuvaram, it is seen that the contractor was convicted under Section 353 I.P.C. on 15-5-19 on a charge of 'Assault on a public servant'. The Government Pleader, Tanjore, has reported that the said offence ~~xxx~~ (Section 353 I.P.C.) is not one covered by any of the Chapters referred to in the G.O.No.1023 Public Works Dated 25-3-1954. It is seen from the Executive Engineer's (Delivery Division) report in No.55 Confdl. dated 23-3-1956 that on account of these facts, the name of this contractor was removed from the list on 7-4-1953 by the then Executive Engineer, but was again enlisted as a contractor by the same Executive Engineer in November 1953. The circumstances under which the contractor was reinstated are not known.

2. As this is a case of a contractor assaulting a P.W.D. subordinate and the case has already been proved in a Court of Law and the contractor convicted for the offence, it is not desirable to encourage such persons. Since the Section 353 I.P.C. is not included in the G.O. cited above, I request orders whether the contractor's name and such cases if they come to notice later may be taken up for blacklisting. I also request that this Section (353 I.P.C.) may also be caused to be included in the Annexure to G.O.No.1023 Public Works dated 25-3-1954.

/True copy/

Copy of letter No.54 Confdl. dated 20-3-56 from the Executive Engineer, Cauvery Division, Tanjore, to the Stationary Sub-Magistrate, Negapattinam.

Contractors convicted on criminal offence - detention in P.W.D. list of contractors.

The Government, in their G.O No.Ms.1023 Public Works dated 25-3-1954, have ordered that persons convicted under certain Sections of the Indian Penal Code should not be registered as approved contractors or retained in the register of approved contractors, or given fresh contract works.

It is now brought to my notice that one Sri S.R. Srinivasal Naidu, a registered contractor of this Division, was convicted for an offence of assaulting a Government servant in C.A.No.19/5 C.C.No.1795/51 on the file of the Stationary Sub-Magistrate, Negapattinam. The copy of the judgment is not available to decide the question of retaining the name of the contractor in the register of approved contractors or otherwise, by referring to the Sections of the Indian Penal Code under which he was convicted. I request you therefore to send a copy of the judgment, if it can be sent without any fees, or to quote the relevant Section numbers of the Indian Penal Code under which the party was convicted. I request a very early reply.

/True copy/

C.Dis.159/56 dated 21-3-1956.

Retransmitted.

2. The accused, S.R. Srinivasalu Naidu concerned in C.C.1795/51 on the file of this Court was convicted to undergo R.I. for six weeks and to pay a fine of Rs.100/- indefault S.I. for six weeks under Section 353 I.P.C. on 15-5-1952 (Assaul on a public servant).

...

Copy of letter Gl.310/56 dated 12-4-1956 from Sri R. Balasubramanian, B.A., B.L., Advocate, Public Prosecutor and Government Pleader, Tanjore, to the Supdg. Engineer, Tanjore Circle, Tanjore: -

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Ref: Your Confdl. communication No.264/Confdl. dated 10-4-1956 received yesterday.

In reply to your above communication, I have to state that the offence under Section 353 I.P.C. is not one covered by the G.C. The said offence is not also one covered by any of the chapters referred to in the G.C.

/True copy/

Copy of Confidential Memorandum No.7762-B/56-2, dated 6-10-1956, Public Works Department:--

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Sub: Contracts -- Contractors convicted of criminal offences -- Inclusion in the list of contractors -- Further instructions -- G.O.Ms.No.1023, P.W. (Confdl.) dated 25-3-1954 -- Amended.

The Chief Engineer, Public Works Department (General) has requested that offences coming under section 353 of the I.P.C. may also be included in the annexure to G.O. Ms.No.1023, P.W. (Confdl.), dated 25-3-1954 as the inclusion of this section is quite necessary for the proper execution of the works by the Department. The Government approved the Chief Engineer's proposal.

2. The following amendment will be issued to G.O. Ms.No.1023, P.W. (Confdl.), dated 25-3-1954:--

AMENDMENT:--

In the offences mentioned against item 5 in the Annexure to the G.O., for the expression "354 to 357", the expression "353 to 357" shall be substituted.

/True copy/

Superintendent.

Note file of

Copy of Confidential G.O.Ms.No.1023, dated 25th Mar 1954, Public Works Department:--

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Extract of Secretary's remarks in Note File No.17567-B/52.

As regards the general question I should say that o those convicted of offences against the State, public peace and tranquility and those involving grave moral turpitude need be kept out. Take this up separately and examine in consultation with C.Es.

T.A.S.M.
9/9/52.

With reference to A above a draft memo is submitted.

A.J.C.
9-10-52.

Issued as Memo No.83896-B/52-1 dated 10--10--1952://

P.W.D.(C.2).

From the C.E.(T.P.) No.2580/52-A-1 dated 22-10-52.
From the C.E.(E) No.4711-G/50-13 dated 31-10-52.
From the C.E., P.W.(G1.), No.1620-G/52-1 dated 13-11-5
From the C.E.(I), No.3939/52-A-2 dated 4-12-52.
From the C.E.(H) No.60516-D2/52 HR dated 16-5-52.

In connection with the disposal of a question raised by the C.E.(H), viz., whether a person convicted of criminal offences could be registered or continued as a contractor, Secretary held the view that only those convicted of offence against the State, public peace and tranquility and those involving grave moral turpitude need be kept out of Governme contracts and ordered that the question might be taken up separately in consultation with the C.Es. The C.Es. were accordingly consulted on the above suggestion -- Vide p.1 c.

2. The C.E., Tungabhadra Project (now C.E.(I)-1) agree that, in addition to those convicted for offences against th ordinances of the realm, those convicted for offences involv grave moral turpitude of the categories of forgery, corrupti rape and murder should also be kept out. The C.E.(E), the C.E.(I), (Now C.E.(I)-1) and C.E.(H) agree with the suggesti at 'A' on p.1 ante. The C.E., P.W.D.(Genl.), while agreeing with the above suggestion, has referred to para 3(ii) of G.O.No.3710 P.W. dated 5-9-52 with reference to which a prel minary verification of the financial ability and also the character of the contractors should be made through the Collector of the district before registration. He considers that the Collector would have to be consulted for giving effect to the suggestion at 'A' on p.1 ante and that the nam of contractors who are already borne in the register of contractors and who are also considered to be guilty of the offences referred to at 'A' on p.1 ante would have to be deleted on receipt of intimation from the Collector.

3. It may be mentioned in this connection that instruct were issued in Govt. Dept. letter No.14132-P & D III/50-1, dated 31-8-1950 that the firms and contractors proved guilty of bribery, corruption, black-marketing, etc. or are prone to delay in the execution of works, and have a tendency to quarrel and create litigation should be denied all facilitie and should not be awarded contracts by the Govt. The above instructions were communicated to all C.Es. in this Depart. Instr. No.6018-B/50-1, dated 19-9-1950.

4. The point for consideration is whether, in view the remarks of the C...(Genl.) instructions may be issued to all the C.Es. in continuation of the orders in ...r 3(ii) of the G.O.No.3710, P. ., dated 5-9-1952 as at 'A' on p.2 ante or whether the instructions referred to ... para 3 above will be considered sufficient.

Further instructions may be issued to all the C.Es. in continuation of the Orders in G.O. No.3710, P..., dated 5-9-1952 that persons convicted of offences of the nature specified t ... on p.1 ante should not be registered as contractors or given any works on contract. Dev. and Finance may see.

K.S.H.,
9-6-53. S.K.,
9-6-53 T.V.R.,
9-6-53. Sd./-
D.S.,
10-6-53.
T.V.R.,
11-6-53.

Dev. Dept.

P.W.D. note on pp.1-3 above. This Dept, may agree with the views at 'A' above. The file may be passed on to Finance

Offences against peace and tranquility are not generally serious.

2. Offences involving grave moral turpitude will require to be specified.

The position under the Constitution will require to be considered. Contracts are not a means of penal enfor ment. The only test to be applied should be reliability

Id./-
15/6
Finance (Exp.C).

Please see the notes on pages 1-3 above.

2. P.W. propose to issue instructions to all the C.E.'s, in continuation of the orders in G.O...o.3710, P. dated 5-9-1952, that persons convicted of offences a ain the State, public peace and tranquility and those involv grave moral turpitude should not be registered as contra tors or given any works on contract. Development Secretary has observed that offences a inst peace and tranqu lity are not generally serious, that offences involving moral turpitude will require to be specified, that the position under the Constitution will required to be considered, as contracts are not means of penal enforcement and that the only test to be applied should be reli

A.S.

Please see the notes of the Development Department and the Finance Department on pages 3-4 above. With reference to the observations made by the Development Secretary at the bottom of page 3 ante, Legal may also see for remarks.

A.J.C., 8-7-53. V.V.R. 9-7-53.

I regret I am unable to agree with Development Secretary that offences against peace and tranquility are not generally serious. Quite a few offences against public peace and tranquility could be very serious indeed, as for instance subversive activity in removing rails, or activity in fomenting class hatred, etc. It will be impossible to specify such offences and offences involving grave moral turpitude. Each case will have to be dealt with on merits. The criterion should be whether a man is a grave enemy of society and its peaceful existence, and also whether he could be relied upon to ~~xxx~~ execute the contract efficiently and fairly.

I do not think there can be any constitutional objection in refusing to enter into contracts with certain persons who had been convicted of offences of the type suggested. The Chapter on fundamental rights does not contain any such provision. A contract is a matter of offer and acceptance and the offer made by a contractor may or may not be accepted by the State.

T.M.S. Mani, 9-7-53.

LEGAL (OPINIO) DEPT.

This department agrees with the views expressed by Secretary, P.W.D. at A above.

As regards B above, attention is invited to the extract from the note of this department in another file where a similar question was raised. Those remarks apply equally to this case.

Id./- .. D.S., Legal. 17-7-53.

P.W.D.(3.2).

In connection with the disposal of a question raised by the C.E.(H), viz., whether a person convicted of criminal offences could be registered or continued as a contractor, Secretary held the view that only those convicted of offences against the State, public peace and tranquility and those involving grave moral turpitude need be kept out of Govt. contracts, and ordered that the question might be taken up separately in consultation with the C.Es. The C.Es. were accordingly consulted in the above suggestion -- Vide p.1 c.f.

2. The C.E., Tungabhadra Project agreed that, in addition to those convicted for offences against the ordinances of the realm, those convicted for offences involving grave moral turpitude of the category of forgery, corruption, rape and murder should also be kept out. The C.E.(S), the C.E.(I), (Now C.E.(I)-I) and C.E.(T) agree with the suggestion at 'A' above. The C.E., P.W.D.(Genl.), while agreeing with the above suggestion has referred to [illegible]

verification of the financial ability and also the character of the contractors should be made through the Collector of the district before registration as contractors. He considers that the Collector would have to be consulted for giving effect to the suggestion at 'A' above and that the names of contractors who are already borne in the register of contractors who are already borne in the register of contractors and who are also considered to be guilty of the offences referred to at 'A' above would have to be deleted on receipt of intimation from the Collector.

3. It may be mentioned in this connection that instructions were issued in Development Dept. - Vide their letter No.14132-F and IIa/50-1 dated 31-8-1950 that the firms and contractors proved guilty of bribery, corruption, black-marketing, etc., or are prone to delay in the execution of works, and have a tendency to quarrel and create litigation should be denied all facilities and should not be awarded contracts by the Govt. The above instructions were communicated to all C.Es. in this department. Endt.No.6948-H/50-1, dated 19-9-1950. This Deptt. have considered that instructions may be issued to all the C.Es. as at 'A' on p.3 ante in continuation of the orders in para 3(ii) of the G.O.Ms.No.3710 F.&., dated 5-9-1952.

4. The Development Secretary has observed that offences against peace and tranquility are not generally serious, that offences involving moral turpitude will require to be specified, that the position under the constitution will require to be considered, as contracts are not means of penal enforcement and that the only test to be applied should be, reliability The Finance Deptt. while agreeing that the test regarding reliability should be applied, have suggested that the other points raised by Development Secretary may be considered by this deptt.

5. The Secretary (Law) has remarked as follows:--

> "I regret I am unable to agree with Development Secretary that offences against peace and tranquility are not generally serious. Quite few offences against public peace and tranquility could be very serious indeed, as for instance subversive activity in removing rails, or activity in fomenting class hatred, etc., It will be impossible to specify such offences and offences involving grave moral turpitude. Each case will have to be dealt with on merits. The criterion should be whether man is a grave enemy of society and its peaceful existence, and also whether he could be relied upon to execute the contract efficiently and fairly.
>
> "I do not think there can be any constitutional objection in refusing to enter into contracts with certain persons who had been convicted of offences of the type suggested. The Chapter on fundamental rights does not contain any such provision. A contract is xxx a matter of offer and acceptance and the offer made by a contractor may or may not be accepted by the State."

6. The Legal Deptt. have agreed with the view at 'A' above. Regarding 'B' above the Legal Deptt. have invited attention to their considered views on the subject extracted at (a). In other words, they accept the views at 'A'.

7. In view of the remarks of Legal, it is for consideration whether the C.Es. may be instructed as in the draft order below.

8. For orders as to circulation. (An order paper als is submitted. It is for consideration whether the orders may be recorded therein as also the recommendations to the Ministers).

A.J.Chandy,
4-8-53
A.S., P.W.D.,

V. Venkatrayudu,
5-8-53.

T.N.S. Mani,
19-8-53.

A.(P.W.) K. Ranga Reddi,
7-8-53.

M. (I. & S.) U. Krishna Rau,
11-8-53.

M (Law) K.P. Kuttikrishnan Nair,
11-8-53.

C.M.

It would best to state the sections of the Indian Penal Code that would be covered by the Order. "Public tranquility and peace" may create difficulties. An exhaustive list of the I.P.C. Sections would be the safest direction. A sentence should be added giving discretion to some authority to make exceptions in deserving cases.

C. Rajagopalachari
13-8-53.

A.S.

The file may be recirculated to A.(P.W.), M. (I & S.) and M (Law) for perusal of the minutes of C.M. at ante above.

A.J. Chandy,
19-8-53
A.S., P.W.D.

V. Venkatrayudu,
21-8-53.

'B' will be done in consultation with Legal and Public Departments.

T.N.S. Mani,
25-8-53,

A. (P.W.) K. Ranga Reddi,
27-8-53
M (I & S) U. Krishna Rau,
28-8-53
M (Law) K.P. Kuttikrishna Nair,
29-8-53.

P.W.D.(S.R.).

Please see the typed note of this deptt. on pp.6-8 ante and the orders of C.M., at 'B' on p.9 ante. With reference to 'A' on p.9 ante the Legal Deptt. may be requested to furnish the exhaustive list of the sections of the Indian Penal Code that would be covered by the draft order below. Public may also see.

A.J.C.,

As the statement that no person who is convicted of an offence should be "continued as a contractor" may be susceptible of the interpretation that even a concluded and subsisting contract should be rescinded in case the contractor is convicted of certain offences, it is necessary to clarify the position by suitably amending the draft. A revised draft is placed at flag (U).

2. P.W.D. will no doubt examine paragraph 2 of the draft from the administrative point of view. They and Public may also consider whether any section of the I.P.C. should be added to or omitted from the Annexure to the draft Order.

Id./-
6-10-53
D.S. (Legal).

I.F.D.(L.2).

Please see previous note of this department on p.10 ante and the note of Legal Dept. thereto.

2. The revised draft prepared by Legal at flag (U) may be perused. With reference to 'A' on p.10 ante, it seems that for the word 'The Chief Engineer', in para 2 of the draft, "The Chief Engineers concerned" may be substituted. No other remarks seem called for.

The file may now be sent to Public for remarks with reference to 'B' on p.10 ante.

D.A.,
10-11-53.
Public (General-A) Department

The notes of P.W.Department at pp.6-8 above and the orders of C.M. at p.9 above and the notes of Law Department at p.10 above and the draft Order below may be read. The file has been sent to this department with reference to B on p.10 above.

So far as this department is concerned we may suggest that abetment of any of the offences specified in the annexure to the Order may also be added.

The subject 'Criminal Law including all matters included in the Indian Penal Code at the date of the commencement of this the Constitution' is allotted to Home Department. P.W. Department may therefore be requested to consult Home Department also w.r.t. B on p.10 above.

The file has been sent to this Dept. with reference to [illegible] on p.10 ante. The question for consideration is what offence should be included in the Annexure to the draft at (U).

Attention is invited to the notes of Development Secretary on p.3 ante and P.W.D. Secretary on p.5 ante and the minute of [illegible] on p.9 ante. The annexure to the draft at (U) is fairly exhaustive. Law Dept. are apparently satisfied that all the offences enumerated in the Annexure should bar the registration of persons as approved contractors. The gravity of the offences does not seem to have been taken into account. Some of the offences specified therein are not very serious and are not as severly punishable as others, e.g., all the offences specified in Chap.VIII are not equally punishable. The proposal is, however, mainly one for the Public Works Department to consider. In trying to exclude contractors, that Dept. may consider whether the amount of punishment also to which a contractor has been sentenced, as also the nature of the offence, and its effect on society and the public may be taken into account. Perhaps these factors would be taken into account when granting exemptions in deserving cases.

Apart from the I.P.C., there are also certain other important special laws for convictions under which contractor may reasonably be refused registration as approved contractor examples are the Prevention of Corruption Act, 1947, the Explosive Substances Act and the Indian Arms Act. These offences under these are rather grave and could be deemed to be on a par with the more serious offences under the I.P.C. enumerated in the Annexure. P.W.D. may perhaps consider whether convictions under such enactments also may be made a bar to the registration as approved contractors.

The file may be returned to P.W.D. after orders are passed.

The [illegible] in his minute at p.9 ante has referred to the I.P.C.; but there appears to be no objection in considering offences under the special laws referred to at p.12 ante. This is, however, for P.W.D. to consider.

Sd./-
D.S.,
14-12-53.

As the more serious offences under Chapter XIV have been specified in item 5 of the annexure I think that Chapter XIV in item 4 may be omitted.

I would also suggest that Ch.XII may be omitted in item 4 and sections 506 and 507 added in item 5. The other offences in Chapter XII are comparatively minor.

What would remain in the annexure is a pretty long list of offences but in view of the provision for granting exemptions there is no harm in the list being fairly comprehensive. For the same reason I would suggest that the special laws mentioned at [illegible] on p.12 may also be included. In view of the importance attached to the enforcement of prohibition now, Prohibition offences may also be included in the Annexure.

The typed note of this Deptt. on pp.6-8 ante explains the case. With reference to the minutes of C... on 1.9 ance, the Law Deptt. have put up a revised draft as flag (J). That Deptt. have also suggested (1) that P. .D. may examine para 2 of the draft from the administrative point of view; (2) that P..D. and Public may consider whether any section of the I.P.C. should be added to or omitted from the annexure to the draft order.

Item (1) above:-- This Deptt. have suggested that for the expression "the C..." in para 2 of the draft order, the expression "The C.Rs. concerned" may be used.

Item (2) above:-- Public (Pl..) Deptt. have suggested that abetment of any of the offences specified in the annexure to the draft may be added. Secretary, Home has suggested that reference to Chapters XII and XVII in item 4 of the annexure may be omitted and that sections 506 and 507 I.P.C. added in item 5. He has also suggested that offences under the Special Acts mentioned at 4 on p.8 ante (i.e. Prevention of Corruption Act, Explosive Substances Act and Indian Arms Act) and Prohibition offences may also be included in the annexure.

As in para 2 of the draft order it is proposed to empower C.Rs. concerned to grant exemptions in deserving cases, the suggestions of Pub. & Home may be accepted. The draft order at (J) has been amended accordingly in pencil. Law (Opinions) may again see.

It does not seem that all offences under the Prevention of Corruption Act, the Explosives Act, the Arms Act or the Prohibition Act should be included in the Annexure to the draft order, but only the more serious of the offences under the Acts. The Law Dept. may therefore be requested to examine the suggestions of Public (Pl.) and Home Departments and make suitable additions to the Annexure to the draft order at (J).

A.S.A.,
12-1-54.

Yes. We should include all offences under ~~xxxxx~~ Prevention of Corruption Act. A contractor convicted under that Act is likely to be a corrupting influence and would tempt public servants.

Some of the offences under Indian Explosives Act are merely technical. The more serious of the offences under these Acts may be included as suggested below:

(1) Offences under Sections 3, 4, 5 and 6 of the Explosive Substance Act

(2) Offences under Sections 5, 9, 10, 14 and 15--- read with Section 20 of the Indian Arms Act, 1878.

(3) Offences under Sections 4(1) and 5 and 7 of the Arms Prohibition Act, 1937.

A.S.A.,
22-1-1954.

This D
offences refer[illegible] to in his note other than those under the Prevention of Corruption Act may be included in the Annexure to the draft Order at (U). The offences under the Prevention of Corruption Act need not be included in the Annexure as they relate only to public servants.

Id./-
D.J.
19/2

P. ..L.(3).

The file relates to the proposal whether persons wh have been convicted of criminal offences should be inclu in h the list of contractors. The question arose in con tion with the disposal of a question raised by the C.E.(viz. whether a person convicted of criminal offences cou be registered or continued as a contractor. Secretary h the view that only those convicted of offences against t State, public peace and tranquility and those involving grave moral turpitude need be kept out of Govt. contract and ordered that the question might be taken up separate in consultation with the C.Es. The C.Es. were according consulted on the above suggestion -- vide p.1 c.f.

2. It may be mentioned in this connection that inst tions were issued in Development Deptt. -- vide their le No.14132-P & D III/50-1 dated 31-8-50 -- that the firms contractors proved guilty of bribery, corruption, black-marketing, etc. or are prone to delay in the execution c works, and have a tendency to quarrel and create litigat should be denied all facilities and should not be awarde contracts by the Govt. The above instructions were com cated to all C.Es in this Deptt. Endt.No.6948-B/50-1 da 19-9-1950. Further, Govt. have issued orders in C.O...s. 3710, P.D., dated 5-9-52 regarding registration of contr with reference to these orders, a preliminary verific ti of the financial ability and also the character of the contractors should be made through the Collector of the Dt. before their registration as contractors.

3. The C.Es. who were consulted in the matter agree with the suggestion at ' ' above. The Development Secre tary observed that offences against peace and tranquilit arenot generally serious, that offences involving moral turpitude would require to be specified, that the positi under the Constitution would require to be considered, a contracts are not means of penal enforcement and that th only test to be applied should be, reliability. The Fin Department while agreeing that the test regarding malfia should be applied, have suggested that the other points raised by Development Secretary may be considered by thi Department.

4 The Secretary (P...) has remarked as follows:--

"I regret I am unable to agree with the Development Secretary that offences against peace and tranquility ar not generally serious. Quite a few offences against pul peace and tranquility could be very serious indeed, as f instance, subversive activity in removing rails, or acti in fomenting class hatred, etc. It will be impossible t specify such offences and offences involving grave moral turpitude. Each case will have to be dealt with on meri The criterion should be whether a man is grave enemy of

Society and its peaceful existence, and also whether he should be relied upon to execute the contract efficiently and fairly.

I do not think there can be any constitutional objection in refusing to enter into contracts with certain persons who had been convicted of offences of the type suggested. The Chapter on fundamental rights does not contain any such provision. A contract is a matter of offer and acceptance the offer made by a contractor may or may not be accepted by the State."

The Legal Deptt. agreed with the views of Secy. at 'A' and 'B' above. This Deptt. therefore propose to issue instructions to the C.Es. that persons convicted of offences against the State or public peace and tranquility or of offences involving grave moral turpitude should not be continued as contractors or registered as approved contractors or given fresh contracts in future.

5. When the case was circulated to Ministers (L)(ILC) (Law) and C.M. for orders, C.M. minuted as extracted below:--

"It will be best to state the sections of Indian Penal Code that would be covered by the order. 'Public tranquility and peace' may create difficulties. An exhaustive list of the I.P.C. sections would be the safest direction. A sentence should be added giving discretion to some authority to make exceptions in deserving cases.

C. Rajagopalachari"
13-8-53.

6. With reference to the minutes of Chief Minister, the remarks of Law, Public & Home Departments have been obtained. The Law Department have put a revised draft order specifying the offences under the Indian Penal Code -- Please see flag (J). Public Deptt. have suggested that abetment of any of the offences specified in the Annexure to the revised draft may also be added. ~~Secretary~~ Secretary, Home, has suggested that reference to Chapters XIV and XXII in item 4 of the Annexure may be omitted and that sections 506 and 507 I.P.C. added in item 5. He has also suggested that offences under the Special Laws mentioned at 'A' on p.12 ante (i.e. Prevention of Corruption Act, Explosive Substances Act and Indian Arms Act) and Prohibition offences may also be included in the Annexure.

7. This Department accordingly proposed to include in addition to the offences under the Indian Penal Code, suggested by Law all offences under Prevention of Corruption Act and the more serious offences under the following Acts:--

(1) Offences under Sections 3, 4, 5 and 6 of the Explosive Substances Act; 1908;

(2) Offences under Sections 5, 6, 10, 14 and 15 read with Section 20 of the Indian Arms Act, 1878;

(3) Offences under Section 4(1), 5 and 7 of the Madras Prohibition Act, 1937.

8. Law Department agree to the inclusion of the offences referred to above, but have advised that the offences under the Prevention of Corruption Act need not be included as the

relate only to public servants. This may be agreed to. A draft order incorporating the suggestions made by Law, Public and Home Departments is submitted for approval.

9. For orders as to circulation. (An order paper also is submitted. It is for consideration whether the orders may be recorded therein as also the recommendation to the Ministers).

L.A.
18-3-54.

S.G.R.,
22-3-54.

May issue. Hs need not be troubled. Ordy. M(J) wh had not seen the case, at pp.8-9 ante may see now.

T.N.S. Nani,
23-3-1954.

M(J). Shanmuga Rajeswaran,
25/3

P.S.O.(G.3).

56-

Sub: Contractors -- Blacklisting of contractors convicted of criminal offences --

Ref: From the G.S., P.W.D.(Gl.) No.20425-Aks-I-1/56, dated 26-6-1956.

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Please see the letter from the G.S. on p.1 c.f. and its enclosures on pp.3-4 c.f.

2. In G.O.Ms.No.1023 P.W. (Confdl.) dated 25-3-54, the Govt. ordered that persons convicted of any of the offences specified in the annexure to the G.O. should not be registered as approved contractors or retained in the register of approved contractors or given fresh contract. The G.S. has now suggested that offence under Sec. 353 o the I.P.C. may also be included in the Annexure to the G mentioned above.

3. Please see extract of section 353 of the I.P.C. flag V. This section is one of the sections in Chapter of the I.P.C. which deals with offences affecting the Pu body. Chapter XVI of I.P.C. contains sections 299 to 37 In item 5 of the Annexure to G.O.Ms.No.1023 P.W. dated 25-3-1954 the following sections under Chapter XVI I.P.C h ve been specified viz. 302, 304, 307, 312 to 318, 327 333, 340, 354 to 357, 358 to 377.

4. Submitted that the question of including the off under section 353 of the I.P.C. does not seem to have be considered before. For the reasons stated in his letter p.1 c.f. the G.S. considers that the inclusion of this s tion is quite necessary. There seems to be no harm in a one more section to the fairly comprehensive list in the annexure. This Deptt. may approve the G.S.'s proposal.

5. Home and Law Departments may see for remarks.

332 I.P.C. relate to allied offences.

N.V.S.,
30-8-56.

Home Department.

Please see note of P.W.D. on pp.1-2 above. In the circumstances stated in para 4 on p.1 ante this Dept. may agree to the inclusion of offences under Sec.353 I.P.C. in the annexure of G.O. at p.28 c.f. of (K). With these remarks the file may be passed on to Law.

Id./-
6-9-56.

Not really of general importance. The offence also is not so disqualifying as those listed. However, no objection.

Id./-
6/9

Law Department.

This department agrees with the views of Home Secretary above.

C.J.V.,
14/9/56.

Id,/-
14/9/56
D.S.

P.W.D.(B).

Please see the remarks of Home and Law Department on p.2 ante. They have no objection to the C.E.'s proposal to include the offences coming under section 353 of the I.P.C. in the annexure to G.O.Ms.No.1023, P.W. (Confdl.) dated 23-3-1954.

The file is submitted for orders as to circulation.

D.A.,
22-9-56.

The proposal at A on page 1 ante, which has been agreed to in Home and Law Departments, may be approved.

N.V. Sugavanam,
29-9-1956.

M.(W):R.Shanmuga Rajeswaran,
1/10.

A draft memo is submitted for approval.
D.A.,
6-10-56.

/True copy/